

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GLORY OSENI,

Plaintiff,

-against-

ORDER
05 CV 2875 (RJD) (LB)

TRISTAR PATROL SERVICES and NYC
DEPARTMENT OF EDUCATION,

Defendants.

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DEARIE, District Judge

Plaintiff brought this pro se action alleging that defendants discriminated against her based on her gender in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. Defendant New York City Department of Education (“DOE”) moved for judgment on the pleadings; defendant Tristar Patrol Services (“Tristar”) moved for dismissal pursuant to Fed. R. Civ. P. 37(b)(2)(C) based on plaintiff’s failure to appear for her court-ordered deposition. The Court referred defendants’ motions to Magistrate Judge Lois Bloom for Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). On August 24, 2006, Magistrate Judge Bloom issued a report, recommending that the Court treat defendant DOE’s motion as a motion for summary judgment¹ and then grant this motion as well as Tristar’s motion to dismiss. Plaintiff filed timely objections.

Plaintiff’s three objections impugn Magistrate Judge Bloom’s handling of the case. Plaintiff argues that: (1) Magistrate Judge Bloom was biased against plaintiff; (2) Magistrate

¹ After obtaining leave from the Court, defendant DOE re-served its motion on the pleadings in accordance with Local Rules 12.1 and 56.2 to provide explicit notice to pro se plaintiff.

Judge Bloom's Report and Recommendation will deny plaintiff her right to a jury trial; (3) Magistrate Judge Bloom erred in recommending that an appeal would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3). Plaintiff's objections are meritless. The Court has reviewed the proceedings in this case and has found no evidence of bias. With respect to plaintiff's second objection, there is never a jury trial when a complaint is dismissed. Finally, Magistrate Judge Bloom acted well within her authority in recommending that the Court certify that an appeal would not be taken in good faith.

The Court has reviewed Magistrate Judge Bloom's Report and Recommendation in its entirety and adopts it without qualification. The Clerk of the Court is directed to close the case.

SO ORDERED.

Dated: Brooklyn, New York
October 18 2006

s/ Judge Raymond J. Dearie

RAYMOND J. DEARIE
United States District Judge